

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ROOR INTERNATIONAL BV, a Foreign Corporation and SREAM, INC., a California corporation

Plaintiffs,

vs.

SS DISTRIBUTORS INC d/b/a
529 SMOKE SHOP and
SYED WASIF ALI ZAIDI

Defendants.

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Case Number 4:18-cv-3836

DEFENDANTS SS DISTRIBUTORS INC d/b/a 529 SMOKE SHOP and SYED WASIF ALI
ZAIDI'S THIRD PARTY COMPLAINT

NOW COMES, Third Party Plaintiffs SS DISTRIBUTORS INC. d/b/a 529 SMOKE SHOP and SYED WASIF ALI ZAIDI, and files this their Third Party Complaint against Third Party Defendants DO MAI TUYET (“Tuyet”) and TRAN THE MANH (“Manh”) d/b/a Direct Import Wholesale (collectively “Third Party Defendants”) and would show unto the court as follows:

1. Third Party Defendant, DO MAI TUYET may be served with process at 9038 Hendon Lane, Houston, Texas 77036 or wherever he may be found.
2. Third Party Defendant, TRAN THE MANH may be served with process at 9038 Hendon Lane, Houston, Texas 77036 or wherever she may be found.

Jurisdiction

3. This third party action is filed by Defendants/Third Party Plaintiffs against Third Party Defendants for trademark infringement, counterfeiting and false designation of origin/unfair competition under the Lanham Act 15 USC 105 et seq. This court has subject matter jurisdiction over the claims by Third Plaintiff as provided above.

Background

4. Third Party Plaintiffs operate a tobacco, e-cigs, vape and smoke shop in Houston, Texas located at 17960 B FM 529 Road, Houston, Texas which it opened in 2018. The principal of Third Party Plaintiff SS Distributors Inc. had little experience operating a smoke shop and had to learn to operate the business and buy inventory. Third Party Defendants Tuyet and Manh d/b/a Direct Import Wholesale are wholesale suppliers to businesses like Third Party Plaintiffs and sell a variety of goods to smoke shops such as water pipes. Third Party Defendants sold to Third Party Plaintiffs a variety of inventory items including the water pipe represented by Third Party Defendants as manufactured or licensed by ROOR that is the basis of Plaintiff's complaint in this action. Third Party Plaintiffs purchased the water pipe in question without knowledge that it was not manufactured or licensed by Plaintiff in this action as alleged by Plaintiff in this action. If Plaintiff's claims are correct then Third Party Plaintiffs would show that Third Party Defendants Tuyet and Manh actively and knowingly performed acts causing the alleged infringement.

5. Pursuant Texas Bus. Com. Code Sec. 2-312 (c) Third Party Defendants warranted to Third Party Plaintiffs that the water pipe purchased made the basis of this action did not infringe on Plaintiffs' trademark or other intellectual property rights. In the event it is proven that the water pipe in question was counterfeit then Third Party Defendants breached this warranty against infringement and Third Party Plaintiffs seek recovery from and judgment against Third Party Defendants, jointly and severally, for all of its damages, attorney fees and judgment for indemnity and contribution from all claims and damages awarded to Plaintiffs in this action.

6. As a result of Third Party Defendants' default, Third Party Plaintiffs have had to hire the undersigned attorney to represent it in this action and request the court award reasonable and necessary attorney's fees to Third Party Plaintiff in the sum of at least TWENTY THOUSAND

(\$20,000.00) DOLLARS for preparation of trial of this action and an additional TWENTY THOUSAND (\$20,000.00) DOLLARS in the event of appeal.

WHEREFORE PREMISES CONSIDERED, Third Party Plaintiffs SS DISTRIBUTORS INC. d/b/a 529 SMOKE SHOP and SYED WASIF ALI ZAIDI prays that Third Party Defendants DO MAI TUYET and TRAN THE MANH, collectively d/b/a Direct Import Wholesale be cited to answer and appear herein and that Third Party Plaintiffs have judgment against them jointly and severally for its damages, indemnity, contribution, reasonable and necessary attorney's fees, costs of court, and such other and further relief to which Third Party Plaintiffs may show himself justly entitled.

Respectfully submitted,

TED A. COX, P.C.

/s/Ted A. Cox

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CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2019, a copy of the foregoing Third Party Complaint was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access the filing through the Court's Electronic Case Filing System.

/s/Ted A. Cox

TED A. COX